

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

PABLO MORALES PADILLA, §
Plaintiff, §
v. § CIVIL ACTION NO. _____
IEA CONSTRUCTORS, LLC, and §
TYLER PRENDERGAST §
Defendants. §

NOTICE OF REMOVAL

Defendants **IEA CONSTRUCTORS, LLC** and **TYLER PRENDERGAST** (hereafter “Defendants”) files this Notice of Removal for the purpose of removing this cause to the United States District Court for the Southern District of Texas, Corpus Christi Division, and states as follows:

I. STATE COURT ACTION

This is an action filed on or about May 9, 2019 in the 94th District Court of Nueces County, Texas, being numbered 2019DCV-2345-C. Suit was filed by Plaintiff Pablo Morales Padilla (hereafter “Plaintiff”) to recover damages arising out of a motor vehicle accident occurring on or about August 10, 2018, at a construction located near FM 892 in Bishop, Nueces County, Texas. Plaintiff’s Original Petition alleges damages and seeks monetary relief in excess of \$200,000.00 but less than \$1,000,000.00. See Exhibit B at page 2.

II. FEDERAL JURISDICTION

Plaintiff Pablo Morales is a citizen of the state of Texas for diversity purposes.

Defendant IEA Constructors, LLC is incorporated under the laws of Wisconsin and has its principal place of business located at 2647 Waterfront Parkway East Drive, Indianapolis, Indiana 46214. Defendant IEA Constructors, LLC’s sole member is IEA Energy Services, LLC

which is incorporated under the laws of Delaware and has its principal place of business located at 6325 Digital Way, Suite 460, Indianapolis, Indiana 46278. The citizenship of a limited liability corporation is determined by the citizenship of all of its members. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1079 (5th Cir. 2008). Thus, Defendant IEA Constructors, LLC is a citizen of Delaware and/or Indiana for diversity purposes.

Defendant Tyler Prendergast is currently a citizen of the state of Arizona and he was a citizen of the state of Arizona on the date of the alleged incident

The amount in controversy is in excess of \$75,000, exclusive of interest and costs. There is, therefore, complete diversity of citizenship and a sufficient amount in controversy to confer jurisdiction on this court pursuant to 28 U.S.C. §1332. The above-described civil action is therefore one that may be removed pursuant to 28 U.S.C. §§1332, 1441, and 1146 and is hereby removed.

III. STATE COURT DOCUMENTS ATTACHED

This Notice of Removal has been filed within thirty (30) days after receipt through service or otherwise, of Plaintiff's Original Petition, filed in the 94th District Court of Nueces County, Texas. Defendant IEA Constructors, LLC would show that it was served with process on May 16, 2019. See Exhibit "E". Plaintiff sued the operator of IEA Constructors, LLC's vehicle that was involved in the alleged incident as "Unknown Driver". Defendant Tyler Prendergast was the operator of IEA Constructors, LLC's vehicle that was involved in the incident and Mr. Prendergast entered an appearance in the State Court action along with Defendant IEA Constructors, LLC without the need of service. Removal is therefore timely under 28 U.S.C. §1446(b). Pursuant to 28 U.S.C. § 1446(a), Defendants have filed as the Appendix to this Notice

of Removal a complete copy of the State's Court file, including copies of all process, pleadings, orders and the Summary Sheet in the State Court action.

Pursuant to 28 U.S.C. § 1446(d), Defendants will notify the Clerk of the Court in the State Court action of this removal, and will give notice thereof to all adverse parties.

IV. RELIEF REQUESTED

Defendants IEA Constructors, LLC and Tyler Prendergast respectfully request that Cause No. 2019DCV-2345-C in the 94th District Court of Nueces County, Texas, be removed to the United States District Court for the Southern District of Texas, Corpus Christi Division, and that this Court accept this Notice of Removal and that it assume jurisdiction of this case and issue such further orders and processes as may be necessary to bring before it all parties necessary for the trial hereof.

Respectfully submitted,

MARTIN, DISIERE, JEFFERSON & WISDOM, L.L.P.

By: /s/ Mark J. Dyer

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**ATTORNEYS FOR DEFENDANTS IEA
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PRENDERGAST**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been mailed, e-mailed, telecopied or hand delivered to all attorneys of record, in compliance with the FEDERAL RULES OF CIVIL PROCEDURE, on this the 13th day of June, 2019.

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/s/ Benjamin D. Britt
BENJAMIN D. BRITT